

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RAJENDRA D. BADGAIYAN, M.D.,)
Plaintiff,)
v.)
ANTHONY J. PRINCIPI, Secretary,)
Department of Veterans' Affairs;)
President and Fellows of)
HARVARD COLLEGE;)
and GRACE J. MUSHRUSH, M.D.,)
Defendants.)

)

WAIVER OF SERVICE OF COMPLAINT AND SUMMONS

TO: Paul H. Merry, Esq.
44 School Street - 10th Floor
Boston, MA 02108

I acknowledge receipt of your request that I waive service of a Summons in the action of Rajendra Badgaiyan, M.D. v. Anthony Principi et al., Civil Action No. 04-12031-PBS in the United States District Court for the District of Massachusetts. I have also received a copy of the Complaint and Amended Complaint in the action, two copies of each instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the Complaint in this lawsuit by not requiring that the entity on whose behalf I am acting be served with

judicial process in the manner provided by Rule 4 of the Federal Rules of Civil Procedure.

I will retain all defenses or objections to the lawsuit of to the jurisdiction or venue of the court except for objections based on a defect in the Summons or in the service of the Summons.

I understand that a judgment may be entered against the entity on whose behalf I am acting if an answer or motion under Rule 12 is not served upon you within sixty (60) days after March 18, 2005 or within in 90 days after that date if the request was sent outside the United States.

Date

Signature of agent
GINA WOLCOTT-TORRES
UNITED STATES ATTORNEY

FOR: Defendant Department of
Veterans' Affairs and
Defendant Grace Mushrush

Duty to avoid Unnecessary Costs of Service

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in waiving unnecessary costs of service of the summons and complaint. A defendant located in the United States who after being notified of an action and asked by a plaintiff located in the United States to waive service of a summons, to do so will be required to bear costs of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person; or property. A party who waives service of the summons; retains all defenses and objections (except any relating go the

Summons of to the service of the summons) and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within th time specified on the waiver forms serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within the time, a default judgment may be taken against the defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.